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May 11, 2000

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Case JA138

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of :

E. REZAI ET AL. :

Serial No.: 09/171,049 :

Group Art Unit: 1771

Filed: October 12, 1998 :

Examiner: C. Pratt

For: **ABSORBENT MATERIALS HAVING IMPROVED STRUCTURAL
STABILITY IN DRY AND WET STATES AND MAKING METHODS
THEREFORE**

The Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

RESPONSE

In response to the Office Action dated April 11, 2000, please consider the above-identified application in view of the accompanying remarks.

REMARKS

The Examiner states that a restriction is required (for lack of Unity under PCT Rule 13.1) and groups the claims as follows: Group I, Claims 1-19, and 39-41, drawn to a first product; Group II, Claims 20-22, drawn to a second product; Group III, claims 23-31 drawn to a first method of producing a product; Group IV, claim 32 drawn to a second method of producing a product; Group V, claim 33 drawn to a third method of producing a product; Group VI, claims 34-37, drawn to a fourth method of producing a product; and Group VII, claim 38, drawn to a fifth method of producing a product.

A. ELECTION

Applicants elect with traverse to prosecute Group I, Claims 1-19 and 39-41. The remaining non-elected claims are to be held in abeyance until final disposition of the elected claims.

B. TRAVERSE

Applicants traverse the restriction/election requirement for the reasons which follow. Applicants submit that the Examiner is bound by the rules set forth in and by the PCT regarding the Unity of invention in administering a restriction requirement for the present application. The Examiner generally states the groups are not so linked as to form a single general inventive concept under PCT Rule 13.1. Specifically, the Examiner further states that the special technical feature of Group I are the absorbent gelling particles comprising a water-insoluble absorbent hydrogel-forming polymer which the

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Examiner states is shown in Wang. The Examiner then concludes that no contribution is made over the prior art and hence there is no unity of invention and therefore lack of unity is held. Applicants are aware of no rule which enables the Examiner to provide a novelty or obviousness argument as a reason for failing to meet the unity of invention standard set forth by the PCT. Therefore, Applicants submit that the Examiner has failed to provide a requisite basis for the restriction requirement. Further, Applicants have not considered the reference mentioned nor the statements made about the present invention as it relates to Wang at this time as no clear rejection over the reference has been issued. 1.475

Applicants further direct the Examiner's attention to Section 1850 of the MPEP. Section 1850 states that "[A] national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories: (1) A product and a process specially adapted for the manufacture of said product" Section 1850 later states "a process shall be considered to be specially adapted for the manufacture of a product if the claimed process inherently results in the claimed product with the technical relationship being present between the claimed product and claimed process". Applicants submit that at least the product claims of Group I and the process claims of Groups III, IV, and V meet this requirement as the common technical feature is the product having the claimed limitations of Claim 1. Applicants further submit that the product claims of Group II and process claims in Groups VI and VII also have a common technical feature to the claims of Groups I, III, IV and V. Namely, both products claimed in Group I and Group II comprise at least absorbent gelling particles comprising a water-insoluble absorbent hydrogel-forming polymer; a polycationic polymer, and a carrier layer; and the process claims of the remaining groups all inherently result in the claimed products having this technical relationship. Therefore, withdrawal of the restriction requirement is deemed proper and Applicants respectfully request the Examiner remove the restriction and examine all of the presented claims.

CONCLUSION

Based on the remarks provided, the foregoing restriction/election requirement is respectfully traversed. Therefore, reconsideration and withdrawal of the restriction/election requirement, and allowance of the Claims are respectfully requested.

Respectfully submitted,

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May 11, 2000
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